

# Public Education Capital Outlay Act

## Title 53A, Chapter 21

(Text is current through the 2007 General Session)

- 53A-21-101. Title.**
  - 53A-21-102. Capital Outlay Foundation Program -- Enrollment Growth Program -- Loan Program.**
  - 53A-21-103. Qualifications for participation in the foundation program -- Distribution of monies -- Distribution formulas.**
  - 53A-21-103.5. Qualifications for participation in the Enrollment Growth Program -- State Board of Education rules -- Distribution formula.**
  - 53A-21-104. School Building Revolving Account -- Access to the account.**
  - 53A-21-105. State contribution to capital outlay programs.**
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### **53A-21-101. Title.**

This chapter is known as the "Public Education Capital Outlay Act."

### **53A-21-102. Capital Outlay Foundation Program -- Enrollment Growth Program -- Loan Program.**

- (1) The Capital Outlay Foundation Program and the Enrollment Growth Program are established to provide revenues to school districts for the purposes of capital outlay bonding, construction, and renovation.
- (2) The Capital Outlay Loan Program is established to provide:
  - (a) short-term help to school districts to meet district needs for school building construction and renovation; and
  - (b) assistance to charter schools to meet school building construction and renovation needs.
- (3) School districts shall use the monies provided to them under the programs established by this section solely for school district capital outlay and debt service purposes.

### **53A-21-103. Qualifications for participation in the foundation program -- Distribution of monies -- Distribution formulas.**

- (1) In order for a school district to qualify for monies under the Capital Outlay Foundation Program established in Subsection 53A-21-102(1), a local school board must levy a tax rate of up to .0024 per dollar of taxable value for capital outlay and debt service.
- (2) The State Board of Education shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that:



- (a) allow a school district levying less than the full .0024 tax rate to receive proportional funding under the foundation program based upon the percentage of the .0024 tax rate levied by the district; and
  - (b) maintain a school district's funding under the Capital Outlay Foundation Program for up to two years if the school district's funding would otherwise be reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.
- (3) The State Board of Education shall distribute monies in the Capital Outlay Foundation Program in accordance with a formula developed by the state superintendent of public instruction which guarantees that a tax rate of up to .0024 per dollar of taxable value for capital outlay and debt service yields a minimum amount per pupil in average daily membership.

**53A-21-103.5. Qualifications for participation in the Enrollment Growth Program -- State Board of Education rules -- Distribution formula.**

- (1) As used in this section:
- (a) "ADM" means average daily membership.
  - (b) "Derived valuation" means total school district property tax current collections from April 1 through the following March 31, divided by the tax rates for the same year.
  - (c) "Yield per ADM" means the product of the derived valuation multiplied by .0024, divided by average daily membership.
- (2) (a) The State Board of Education shall distribute monies in the Enrollment Growth Program to qualifying school districts whose:
- (i) average net enrollment for the prior three years is a net increase in enrollment; and
  - (ii) yield per ADM is less than two times the prior year's average yield per ADM for Utah school districts.
- (b) A school district that meets the criteria of Subsection (2)(a) shall receive Enrollment Growth Program monies in the same proportion that the district's three-year average net enrollment bears to the total three-year net enrollment of all the districts that meet the criteria of Subsection (2)(a).
- (c) The State Board of Education shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to administer this section.

**53A-21-104. School Building Revolving Account -- Access to the account.**

- (1) There is created a nonlapsing "School Building Revolving Account" administered within the Uniform School Fund by the state superintendent of public instruction in accordance



with rules adopted by the State Board of Education.

- (2) Monies received by a school district from the School Building Revolving Account may not exceed the district's bonding limit minus its outstanding bonds.
- (3) In order to receive monies from the account, a school district must do the following:
  - (a) levy a tax of at least .0024 for capital outlay and debt service;
  - (b) contract with the state superintendent of public instruction to repay the monies, with interest at a rate established by the state superintendent, within five years of their receipt, using future state building monies or local revenues or both;
  - (c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan repayments, unless the state superintendent of public instruction alters the payment schedule to improve a hardship situation; and
  - (d) meet any other condition established by the State Board of Education pertinent to the loan.
- (4)
  - (a) The state superintendent shall establish a committee, including representatives from state and local education entities, to:
    - (i) review requests by school districts for loans under this section; and
    - (ii) make recommendations regarding approval or disapproval of the loan applications to the state superintendent.
  - (b) If the committee recommends approval of a loan application under Subsection (4)(a)(ii), the committee's recommendation shall include:
    - (i) the recommended amount of the loan;
    - (ii) the payback schedule; and
    - (iii) the interest rate to be charged.
- (5)
  - (a) There is established within the School Building Revolving Account the Charter School Building Subaccount administered by the State Board of Education, in consultation with the State Charter School Board, in accordance with rules adopted by the State Board of Education.
  - (b) The Charter School Building Subaccount shall consist of:
    - (i) money appropriated to the subaccount by the Legislature;
    - (ii) money received from the repayment of loans made from the subaccount; and
    - (iii) interest earned on monies in the subaccount.
  - (c) The state superintendent of public instruction shall make loans to charter schools from the Charter School Building Subaccount to pay for the costs of:
    - (i) planning expenses;
    - (ii) constructing or renovating charter school buildings;
    - (iii) equipment and supplies; or



- (iv) other start-up or expansion expenses.
- (d) Loans to new charter schools or charter schools with urgent facility needs may be given priority.
- (6) (a) The State Board of Education shall establish a committee, which shall include individuals who have expertise or experience in finance, real estate, and charter school administration, one of whom shall be nominated by the governor to:
  - (i) review requests by charter schools for loans under this section; and
  - (ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.
- (b) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:
  - (i) the recommended amount of the loan;
  - (ii) the payback schedule; and
  - (iii) the interest rate to be charged.
- (c) The committee members may not:
  - (i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or
  - (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.
- (7) The State Board of Education, in consultation with the State Charter School Board, shall approve all loans to charter schools under this section.
- (8) Loans to charter schools under this section may not exceed a term of five years.
- (9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any year.

**53A-21-105. State contribution to capital outlay programs.**

- (1) As an ongoing appropriation subject to future budget constraints, there is appropriated from the Uniform School Fund for fiscal year 2007-08, \$27,288,900 to the State Board of Education for the capital outlay programs created in Section 53A-21-102.
- (2) Of the monies appropriated in Subsection (1), the State Board of Education shall distribute:
  - (a) \$24,358,000 in accordance with the Capital Outlay Foundation Program described in Section 53A-21-103; and
  - (b) \$2,930,900 in accordance with the Enrollment Growth Program described in Section 53A-21-103.5.